

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DELTA PILOTS ASSOCIATION,)	
)	
Plaintiff)	
)	
v.)	No. 1:14-cv-00225-AKH
)	
JOHN DOE,)	
)	
Defendant.)	
_____)	

SECOND DECLARATION OF MICHAEL ABRAM


I, Michael Abram, declare as follows:

1. I am a partner in the law firm of Cohen, Weiss and Simon, LLP, which represents non-party Air Line Pilots Association, International ("ALPA") in this matter. I offer this Declaration in support of the Memorandum of Non-Party Air Line Pilots Association, International in Opposition to Motion to Vacate or Modify the Court's Confidentiality Order of August 14-15, 2014. I have personal knowledge of the facts set forth in this Declaration.

2. Attached hereto as Exhibit 1 is a true and correct copy of an email of December 5, 2014, from Stanley Silverstone, counsel for the Delta Pilots Association ("DPA"), to me, and my response of December 9, 2014 at 12:12 p.m. I did not receive any response to that December 9 email; instead, DPA filed the instant motion later in the day on December 9.

Pursuant to 29 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 12th, 2014

By: 

Michael Abram

EXHIBIT 1

Michael E. Abram

From: Abram, Michael, CWS Attorney <mabram@cwsny.com>
Sent: Tuesday, December 09, 2014 12:12 PM
To: Stanley Silverstone
Cc: Luby, Arthur, Assistant Director Representation; Lobsenz, Jim, Legal; Evan R. Hudson-Plush; Nick Granath
Subject: DPA v. John Doe

Mr. Silverstone:

I write in response to your email below. Thank you for your courtesy in awaiting a response.

The Court's reference to a stipulation obviously contemplated that DPA would develop, and ALPA would be made aware of, the evidence that would support naming the Delta Pilot in a lawsuit. As our discussion in court made clear, ALPA would not agree to a public disclosure of the name of the Delta Pilot unless DPA could "support that enough" to name him in a lawsuit. ALPA is unaware, however, of any evidentiary basis for DPA to file suit against the Delta Pilot – a suit that, unless filed under seal or anonymously and then served on the Delta Pilot – risks subjecting him to the harassment that led to the original protective order and that Judge Hellerstein in his recent order reasserted was a legitimate concern of the Association. As you know, the Delta Pilot has denied any involvement in the alleged hacking incident in a detailed statement, and DPA never submitted any evidence to the contrary to Judge Hellerstein. In that regard, after ALPA confidentially disclosed the identity of the Delta Pilot to you pursuant to the Protective Order, and notwithstanding your representation to the Court that you intended to depose the pilot, we are aware of no attempt by DPA to notice his deposition. Moreover, DPA has offered no evidence in that proceeding or in the subsequent proceedings on ALPA's emergency motion – such as the "electronic tracks" referenced in your demands for discovery --- that showed or tended to show that he was involved in the alleged hacking incident.

In order for ALPA to properly evaluate DPA's request for a stipulation (and to protect the Delta Pilot from harassment), please provide the evidence supporting DPA's claim that the Delta Pilot is the "John Doe" named in DPA's since-withdrawn complaint.

**COHEN
WEISS
SIMON**

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From: Stanley Silverstone [mailto:ssilverstone@ssmplaw.com]
Sent: Friday, December 05, 2014 10:30 AM
To: Michael E. Abram
Cc: 'Art Luby'; 'Jim Lobsenz'; Evan R. Hudson-Plush; Nick Granath
Subject: DPA v. John Doe

Mr. Abram:

Clearly, the Judge misunderstood when he stated in his decision that "Plaintiff now has evidenced its intent to publicly identify the Delta Pilot by suing him in the state of New York." We never said that. We said that DPA intends to sue the Delta Pilot in his home state -- which we know is not NY.

We seek ALPA's stipulated agreement for DPA to publicly identify the Delta Pilot by suing him in his home state. As you know, Judge Hellerstein stated on Aug. 14, 2014 that "[DPA's President and counsel] will honor the confidentiality until such time as I grant [DPA] permission to change the name of the caption or there is a stipulation to that effect, **which I shouldn't think would be withheld.**" (emphasis added).

Please advise whether ALPA agrees to stipulate or withholds agreement to stipulate to permit DPA to publicly identify the Delta Pilot by suing him in his home state.

Stanley J. Silverstone
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